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EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 8th August, 2013:—

I

BILL NO. XLVIII OF 2013

A Bill further to amend the Parliament (Prevention of Disqualification) Act, 1959.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Parliament (Prevention of Disqualification) Amendment Act, 2013.

Short title and commencement.

(2) It shall be deemed to have come into force on the 19th day of February, 2004.

10 of 1959.

2. In section 3 of the Parliament (Prevention of Disqualification) Act, 1959, in clause (ba), for sub-clause (ii), the following sub-clauses shall be substituted, namely:—

Amendment of section 3.

“(ii) the National Commission for the Scheduled Castes constituted under clause (1) of article 338 of the Constitution;

(iia) the National Commission for the Scheduled Tribes constituted under clause (1) of article 338A of the Constitution;”.

STATEMENT OF OBJECTS AND REASONS

Sub-clause (a) of clause (1) of article 102 of the Constitution provides that a person shall be disqualified for being chosen as, and for being a member of either House of Parliament, if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder. In pursuance of this provision, the Parliament (Prevention of Disqualification) Act, 1959 was enacted to exempt certain offices, holding of which will otherwise subject the holder of such office to disqualification.

2. Section 3 of the Parliament (Prevention of Disqualification) Act, 1959, as amended from time to time, lists certain offices of profit under the Government of India or the Government of any State, which do not disqualify the holders thereof for being chosen as, or for being, a Member of Parliament. Sub-clause (ii) of clause (ba) of section 3 of the said Act, exempts the Chairperson of the National Commission for the Scheduled Castes and Scheduled Tribes from incurring disqualification.

3. The National Commission for the Scheduled Castes and Scheduled Tribes was bifurcated into two independent Commissions *i.e.*, (i) the National Commission for the Scheduled Castes; and (ii) the National Commission for the Scheduled Tribes by the Constitution (Eighty-ninth Amendment) Act, 2003. By the said Constitution amendment Act, article 338 of the Constitution was amended and a new article, namely, article 338A was inserted in the Constitution. With the bifurcation of the National Commission for the Scheduled Castes and Scheduled Tribes, consequential amendments are required in sub-clause (ii) of clause (ba) of section 3 of the Parliament (Prevention of Disqualification) Act, 1959, so as to exclude the Chairperson of the National Commission for the Scheduled Castes and the Chairperson of the National Commission for the Scheduled Tribes from incurring any disqualification for being chosen as or for being, a Member of Parliament. The Constitution (Eighty-ninth Amendment) Act, 2003, came into force from 19th February, 2004 and therefore, it is proposed to give effect to the amendment in the Bill with effect from the same date.

4. The Bill seeks to achieve the above objects.

KAPIL SIBAL.

II

BILL NO. XLVII OF 2013

A Bill further to amend the Registration Act, 1908.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Registration (Amendment) Act, 2013.

Short title
and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

16 of 1908.

2. In section 2 of the Registration Act, 1908 (hereinafter referred to as the principal Act),—

Amendment
of section 2.

(i) in clause (1), the words and brackets “rank and title (if any)” shall be omitted;

21 of 2000.

(ii) in clause (2), after the words “or portion of a book” occurring at the end, the words, brackets, letter and figures “and includes electronic records as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000” shall be inserted;

(iii) for clause (7), the following clause shall be substituted, namely:—

‘(7) “lease” means a lease of immovable property and also includes—

(a) a patta;

(b) a *kabuliyat* or undertaking in writing to cultivate or occupy, or pay rent for immovable property;

(c) any instrument by which tolls of any description are let;

(d) any writing on an application for a lease, where premium or average annual rent, money advanced, payment in lieu of rent, intended to signify that the application is granted;

(e) an agreement to lease stating an annual rent or premium or both or such amount in lieu of rent as notified by the State Government;

(f) any instrument by which mining lease is granted in respect of minor minerals as defined in clause (e) of section 3 of the Mines and Minerals (Regulation and Development) Act, 1957;'

67 of 1957.

(iv) after clause (9), the following clause shall be inserted, namely:—

'(9A) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;'

(v) after clause (10), the following clause shall be inserted, namely:—

"(11) the words and expressions related to electronic registration used herein and not defined in this Act but defined in the Information Technology Act, 2000 shall have the meanings, respectively, assigned to them in that Act."

21 of 2000.

Amendment
of section 3.

3. In section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The State Government may appoint one or more Additional Inspector-General of Registration, Joint Inspector-General of Registration, Deputy Inspector-General of Registration and Assistant Inspector-General of Registration for the territories and may specify the duties of such officers and authorise them to exercise all or any powers and duties of the Inspector-General of Registration."

Amendment
of section 6.

4. In section 6 of the principal Act, the words "whether public officers or not," shall be omitted.

Amendment
of section 8.

5. In section 8 of the principal Act,—

(a) in sub-section (1), for the words "officers, to be called Inspectors of Registration-offices", the words "officers to be designated as Inspectors of Registration-offices from time to time" shall be substituted;

(b) in sub-section (2), for the word "Inspector-General", the word "Inspector-General of Registration" shall be substituted.

Substitution
of new
section for
section 10.

6. For section 10 of the principal Act, the following section shall be substituted, namely:—

"10. When any Registrar is absent otherwise than on duty in his district, or when his office is temporarily vacant, any public officer whom the Inspector-General appoints in this behalf, shall be the Registrar during such absence or until the State Government fills up the vacancy."

Absence of
Registrar or
vacancy in
his office.

Amendment
of section 17.

7. In section 17 of the principal Act, in sub-section (1),—

(i) for clause (d), the following clause shall be substituted, namely:—

"(d) leases of immovable property for any term:

Provided that in case where the lease is for a term less than one year, the State Government may, by notification, specify the amounts of annual rent,

money advance, payment in lieu of rent or premium which shall not be less than fifty thousand rupees per month;”;

(ii) after clause (e) and before the proviso thereof, the following clauses shall be inserted, namely:—

“(f) any document which purports or operates to effect any contract for sale of any immovable property including developer’s or promoter’s agreement by whatever name called for development of any property or construction of structure;

(g) agreement relating to the deposit of title deeds, where such deposit has been made by way of security for the repayment of a loan or an existing or future debt, except where it is filed under section 89;

(h) sale certificate issued by any competent officer or authority under any Central Act or State Act for the time being in force;

(i) power of attorney authorising transfer of immovable property with or without consideration;

(j) instruments in respect of amalgamation, reconstruction, merger and demerger of companies and transfer of immovable property at the time of formation of companies pursuant to any order made by the High Court under the Companies Act, 1956;

(k) instruments which purport or operate to create, declare, assign, limit, extinguish any right, title or interest whether vested or contingent in immovable property pursuant to any decree or order or any award made by a court.”;

(iii) in sub-section (2), clause (xii) and the *Explanation* thereunder shall be omitted;

(iv) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Authorities to adopt a son or a daughter and not conferred by a Will, shall also be registered.”.

8. For section 18 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 18.

“18. The following documents may be registered under this Act, namely:—

Documents of which registration is optional.

(a) Wills, authority to adopt by a Will;

(b) any document notified by the State Government.”.

9. After section 18 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 18A.

“18A. The following classes of documents shall be refused for registration, namely:—

Refusal of registration of certain documents.

(a) the document relating to transaction, which is prohibited by any existing Central Act or State Act for the time being in force;

(b) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or lease or otherwise in respect of any immovable property owned by the Central Government or State Government or any Authority or undertaking of the Central Government or State Government or any Authority or undertaking constituted or established under any Central Act

or State Act, for the time being in force, executed by any person other than those statutorily empowered to do so;

(c) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or permanent alienation or lease or otherwise pertaining to any immovable property which is attached permanently or provisionally by any competent authority under any Central Act or State Act for the time being in force or any court or Tribunal;

(d) any document or class of documents which are likely to affect adversely the accrued interest in immovable properties of the Central Government, State Governments, local bodies, educational, cultural, religious or charitable institutions including Waqf Boards, Bhoodan Yagan and other properties as may be notified by the State Government:

Provided that nothing in this clause shall apply in respect of any document or class of documents for which sanction in this regard has been issued by the competent authority under any law for the time being in force.”

Omission of section 28.

10. Section 28 of the principal Act shall be omitted.

Amendment of section 29.

11. In section 29 of the principal Act,—

(a) in sub-section (1), the words and figures “not being a document referred to in section 28 or a copy of a decree or order,” shall be omitted;

(b) in sub-section (2), the words “where the decree or order does not affect immovable property,” shall be omitted.

Substitution of new section for section 32.

12. For section 32 of the principal Act, the following section shall be substituted, namely:—

Persons to present documents for registration.

“32. Except in the cases mentioned in sections 31, 88 and 89, or when the document is presented by electronic means, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office, in the manner as may be prescribed,—

(a) by the person executing or claiming under the same, or, in the case of a copy of a decree or order, by a person claiming under the decree or order; or

(b) by the representative or assignee of such person; or

(c) by the agent of such person, representative or assignee, duly authorised by the power of attorney executed and authenticated in the manner hereinafter mentioned.”

Substitution of new section for section 32A.

13. For section 32A of the principal Act, the following section shall be substituted, namely:—

Compulsory affixing of photograph, etc.

“32A. (1) Every person presenting any document at the proper registration office under section 32 shall affix in the document his passport size colour photograph and get photographed by digital camera and affix thumb impression by manual or by biometric device in the document and both executants and claimant shall sign in the document, if such document falls in the following category, namely:—

(a) agreement to sell immovable property including developer’s or promoter’s agreement by whatever name called, for development of any property or construction of structure;

(b) conveyance;

- (c) exchange;
- (d) gift;
- (e) lease including transfer of lease by way of assignment and surrender of lease;
- (f) mortgage;
- (g) partition;
- (h) settlement;
- (i) trust;
- (j) power of attorney.

(2) The passport size photograph and thumb impression of each executant and claimant shall also be affixed to the document referred to in sub-section (1).

(3) The State Government shall notify the order for taking photographs of identifying witnesses before the registering officer.”.

14. In section 33 of the principal Act, in sub-section (4),—

Amendment
of section
33.

(a) for the words “may be proved”, the words “shall be proved” shall be substituted;

(b) the following proviso shall be inserted, namely:—

“Provided that a proof to the effect that the person executing the power of attorney is alive shall be produced.”.

15. In section 35 of the principal Act,—

Amendment
of section
35.

(i) in sub-section (1), in clause (a), after the words “appear personally”, the words “or through electronic means, as the case may be” shall be inserted;

(ii) in sub-section (3),—

(a) in clause (c), the word “or” shall be inserted at the end;

(b) after clause (c), and before the words “registering officer shall refuse”, the following clause shall be inserted, namely:—

“(d) on such circumstances and such documents as may be prescribed.”.

16. In section 52 of the principal Act, in sub-section (1), after clause (c), the following proviso shall be inserted, namely:—

Amendment
of section
52.

“Provided that when a document is registered through the electronic means, the rules made by the State Government shall be followed in this regard.”.

17. In section 57 of the principal Act,—

Amendment
of section
57.

(a) in sub-section (1), for the words and figures “Books Nos. 1 and 2”, the words and figures “Books Nos. 1, 2 and 4” shall be substituted;

(b) sub-section (3) shall be omitted;

(c) in sub-section (4), for the words and figures “Books Nos. 3 and 4”, the words and figure “Book No. 3” shall be substituted.

18. In section 60 of the principal Act, in sub-section (1), after the words “the document has been copied”, the words “or the true copy of the document has been filed” shall be inserted.

Amendment
of section
60.

19. In section 61 of the principal Act,—

Amendment
of section
61.

(a) for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) The endorsements and certificate referred to and mentioned in sections 59 and 60 shall thereupon be copied into the true copy of the document

presented along with the document, and the true copy of the map or plan, if any, mentioned in section 21 shall be filed along with the true copy of the document in Book No. 1.

(1A) The endorsement sheet and the signature sheet generated through the electronic means shall be scanned along with the document and numbered accordingly:

Provided that in the office of the registering officer notified by the State Government as a computerised office, the copying of the items shall be done by using the electronic devices.”.

Amendment
of section
64.

20. In section 64 of the principal Act, after the words and brackets “endorsement and certificate (if any) thereon,” the words “either hard copy or in electronic form, as the case may be,” shall be inserted.

Amendment
of section
65.

21. In section 65 of the principal Act, in sub-section (1), after the words and brackets “endorsement and certificate (if any) thereon,” the words “either hard copy or in electronic form, as the case may be,” shall be inserted.

Amendment
of section
66.

22. In section 66 of the principal Act, in sub-section (2), after the words and brackets “together with a copy of the map or plan (if any)”, the words “either hard copy or in electronic form, as the case may be,” shall be inserted.

Amendment
of section
69.

23. In section 69 of the principal Act, in sub-section (1),—

(a) clause (i) shall be omitted;

(b) after clause (j), the following clauses shall be inserted, namely:—

“(k) regulating the procedure for presentation of various types of documents, appearance of executants for admission of execution, endorsements, and the manner of fixing signature and seal of registering officer, mode of payment of registration fees and other fees and such other processes when the document is presented for registration by electronic means;

(l) regulating the procedure of registration;

(m) providing the manner in which and the safeguards subject to which the books may be kept in computer floppies or diskettes or in any other electronic form under sub-section (1) of section 16A;

(n) regulating the procedure for taking of photograph of identifying witnesses to a document presented before a registering officer;

(o) providing for online registration of documents and enquiry before the registering officer when the document is presented before the registering officer by electronic means at any office of the registering officer;

(p) providing for scanning the documents for their safety in electronic form;

(q) providing for sending of memoranda of documents registered in electronic form;

(r) regulating the manner in which the instruments referred to in sub-section (2) of section 88 may be presented for registration;

(s) regulating the manner of recopying of books, indexes or portions thereof.”.

24. After section 80 of the principal Act, the following sections shall be inserted, namely:—

Insertion of
new sections
80A and 80B.

“80A. (1) Notwithstanding anything contained in section 80, after the registration of a document, if it is found that the fee payable under this Act, in relation to that document has not been paid, or has been insufficiently paid, such fee for the deficit, as the case may be, on a certificate of the registering officer, be recovered from the person who presented such document:

Recovery of
deficit
registration
fee.

Provided that no such certificate shall be issued unless an inquiry is made and such person is given an opportunity of being heard:

Provided further that no such inquiry shall be commenced after the expiry of such period, after the date of the registration of the document, as may be specified by the State Government.

(2) The certificate of the registering officer issued under sub-section (1) shall, subject to appeal under sub-section (3), be final.

(3) Any person aggrieved, by certificate of the registering officer under sub-section (1), may prefer an appeal to the Registrar if it is a certificate of the Sub-Registrar, or to the Inspector-General of Registration if it is a certificate of the Registrar, and all such appeals shall be preferred within such time and be heard and disposed of in such manner as may be prescribed.

80B. (1) Where the Registrar finds that the amount of fee charged and paid is in excess of that which is legally chargeable and payable under this Act, he may, upon an application in writing or otherwise, refund the excess amount of fee so charged and paid.

Refund of
excess fee.

(2) An application for the refund of registration fee, referred to in sub-section (1), shall be made within a period of six months from the date of registration:

Provided that after the expiry of the period of six months from the date of registration, the State Government may entertain the application up to a period of one year, and direct the Registrar to refund the excess amount of fee so charged and paid within the period of six months from such direction.”.

25. Section 82 of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1), as so numbered, the following sub-section shall be inserted, namely:—

Amendment
of section
82.

“(2) In addition to the punishment specified under sub-section (1), documents referred to in clauses (b) and (c) of sub-section (1) shall be liable for cancellation in such manner and procedure as may be prescribed by the State Government.”.

26. After section 82 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
82A.

“82A. Every officer who fails to send a copy of the order within one month under section 89 to the registering officer shall be punishable with a fine which may extend to rupees twenty-five thousand.”.

Punishment
for failure to
send a copy
of order
under section
89.

27. In section 89 of the principal Act,—

Amendment
of section
89.

(a) in sub-section (1), after the words and figure “Book No.1”, the words “or get it scanned” shall be inserted;

(b) sub-section (2) shall be omitted;

(c) in sub-section (3), after the words and figure “Book No.1”, the words “or get it scanned” shall be inserted;

(d) sub-section (4) shall be omitted;

(e) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) All banks and financial institutions, granting loans on the basis of equitable mortgage whereby immovable property is mortgaged by deposit of title deeds for the purpose of securing repayment of the loan, may send the copy of the same online to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situated either directly or through an agency appointed by the Central Government or the State Government and such registering officer shall keep the copy or copies in computer diskettes or in any electronic form, as the case may be, in his Book No.1.”.

Insertion of
new section
89A.

28. After section 89 of the principal Act, the following section shall be inserted, namely:—

Power of
State
Government
to make
rules.

“89A. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of presentation of every document to the registration office under section 32;

(b) such circumstances and such documents under clause (d) of sub-section (3) of section 35;

(c) the time within which and the manner of hearing and disposing of appeals under sub-section (3) of section 80A;

(d) the manner of cancellation and the procedure to be adopted under sub-section (2) of section 82; and

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.”.

STATEMENT OF OBJECTS AND REASONS

The Registration Act, 1908 was enacted to consolidate the law relating to the registration of documents. The provisions relating to the registration of documents were scattered about in seven enactments. The Registration Act, 1908 collated these provisions and incorporated them into one single Act.

2. At present the Registration Act, 1908 provides that leases below one year are not compulsorily registrable. This provision has been exploited and the leases below one year are prepared, which are renewed after the specified period. This not only causes hardships to both the parties in cases of disputes but also loss of revenue to the States. The Act does not empower the Sub-Registrar Officer to refuse registration of documents in case of transfer of the Government properties, properties belonging to charitable and educational institutions or the properties attached by the Courts or any Authority. At present the Power of Attorney is optionally registrable. Many unscrupulous elements have found an ingenious way to avoid the registration and transfer the immovable properties through this Power of Attorney. The Act does not contain the provision for recovery of deficit registration fees or refund of the excess registration fees collected by the Registering Officer.

3. A Committee under the Chairmanship of the Secretary, Department of Land Resources had been constituted on the administration of the Registration Act, 1908 and to suggest amendments to it. The Committee after detailed deliberations has suggested certain amendments to the Registration Act, 1908. The rapid computerisation of the registration process in the country has also necessitated certain changes in the provisions of the Act.

4. In view of the above, it has been decided to amend the Registration Act, 1908. Accordingly, the Registration (Amendment) Bill, 2013, *inter alia*, provides the following, namely:—

(a) to amend clause (d) of sub-section (1) of section 17 of the Act, so as to make the registration compulsory irrespective of the leases of immovable property for any term. However, in case the lease is for a term less than one year, the State Government may specify the amounts of annual rent, etc., which shall not be less than fifty thousand rupees per month;

(b) to substitute section 18 of the Act to provide that the Wills, authority to adopt by a Will and any document notified by the State Government, may be registered at the option of the parties;

(c) to insert a new section 18A which prohibits the registration of certain documents relating to (a) transaction which is prohibited by any existing Central or State Act for the time being in force; (b) transfer of property by way of agreement for sale, sale, etc., by the Central or State Government or any authority or undertaking executed by any person other than those statutorily empowered to do so; (c) transfer of property by way of agreement for sale, sale, etc., which is attached permanently by competent authority; and (d) any document which is likely to affect the accrued interest in immovable properties of the Central or State Government, local bodies, etc., and other properties as may be notified by the State Government;

(d) to amend section 29 of the Act to provide that the immovable property can be registered only in the State in which it is actually located. However, the Central Government or State Government may, by notification with the reasons, allow a particular document to be registered in any registration office;

(e) to substitute section 32A of the Act so as to provide that every person presenting any document at the proper registration office shall affix in the document a passport size colour photograph and get photographed by a digital camera and affix thumb impression in the document;

(f) to insert the new sections 80A and 80B so as to make the provisions for the recovery of deficit registration fee and refund of excess fees;

(g) to amend section 89 of the Act providing that all banks and financial institutions granting loans on the basis of equitable mortgage, may send the copy of the same on line to the registering officer within the local limits of whose jurisdiction the whole or any part of the property so mortgaged is situated.

5. The notes on clauses explain in detail the various provisions contained in the Registration (Amendment) Bill, 2013.

6. The Bill seeks to achieve the above objects.

JAIRAM RAMESH.

Notes on clauses

Clause 2.— This clause seeks to amend section 2 of the Registration Act, 1908 relating to “definitions”. It proposes to substitute clause (7) of section 2 of the Act relating to the term “lease” so as to define it comprehensively.

Clause 3.— This clause seeks to amend section 3 of the Act relating to “Inspector General of Registration”. It proposes to insert a new sub-section (3) which provides that the State Government may appoint one or more Additional Inspector- General of Registration, Joint Inspector-General of Registration, Deputy Inspector-General of Registration and Assistant Inspector-General of Registration for the territories and may specify the duties of such officers and authorise them to exercise all or any powers and duties of the Inspector-General of Registration.

Clause 4.— This clause seeks to amend section 6 of the Act relating to “Registrars and Sub-Registrars”, so as to omit the expression “whether public officers or not” in the said section.

Clause 5.— This clause seeks to amend section 8 of the Act relating to “Inspectors of Registration-offices”, so as to substitute the words “officers to be called Inspectors of Registration-offices”, with the words “officers to be designated as Inspectors of Registration-offices from time to time.”.

Clause 6.— This clause seeks to substitute section 10 of the Act relating to “Absence of Registrar or vacancy in his office” so as to provide that when any Registrar is absent otherwise than on duty in his district, or when his office is temporarily vacant, any public officer whom the Inspector-General appoints in this behalf, shall be the Registrar during such absence or until the State Government fills up the vacancy”.

Clause 7.— This clause seeks to amend section 17 of the Act relating to “documents of which registration is compulsory”. It proposes to substitute clause (d) of sub-section (1) of the said section so as to provide that registration is compulsory in matters relating to leases of immovable property for any term. However in case where the lease is for a term less than one year, the State Government may, by notification, specify the amounts of annual rent, money advance, payment in lieu of rent or premium which shall not be less than fifty thousand rupees per month. It also proposes that the registration is compulsory in matters relating to—(i) any document which purports or operates to effect any contract for sale of any immovable property including developer's or promoter's agreement by whatever name called for development of any property or construction of structure; (ii) agreement relating to the deposit of title deeds, where such deposit has been made by way of security for the repayment of a loan or an existing or future debt, except where it is filed under section 89; (iii) sale certificate issued by any competent officer or authority under any Central Act or State Act for the time being in force; (iv) power of attorney authorising transfer of immovable property with or without consideration; (v) instruments in respect of amalgamation, reconstruction, merger and demerger of companies and transfer of immovable property at the time of formation of companies pursuant to any order made by the High Court under the Companies Act, 1956; (vi) instruments which purports or operates to create, declare, assign, limit, extinguish any right, title or interest whether vested or contingent in immovable property pursuant to any decree or order or any award made by a court. This clause also proposes to substitute sub-section (3) of the said section so as to provide that Authorities to adopt a son or a daughter and not conferred by a will, shall also be registered.

Clause 8.— This clause seeks to substitute section 18 of the Act relating to “documents of which registration is optional” so as to provide that the wills, authority to adopt by a will and any document notified by the State Government may be registered at the option of the parties.

Clause 9.— This clause seeks to insert a new section 18A relating to “refusal of registration of certain documents”. The said section provides for the refusal of registration of certain documents. They are—(a) the document relating to transaction, which is prohibited by any existing Central Act or State Act for the time being in force; (b) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or lease or otherwise in respect of any immovable property owned by the Central Government or State Government or any Authority or undertaking of the Central Government or State Government or any Authority or undertaking constituted or established under any Central Act or State Act, for the time being in force, executed by any person other than those statutorily empowered to do so; (c) the document relating to transfer of property by way of agreement for sale, sale, gift, exchange or permanent alienation or lease or otherwise pertaining to any immovable property which is attached permanently or provisionally by any competent authority under any Central Act or State Act for the time being in force or any court or Tribunal; (d) any document or class of documents which are likely to adversely affect accrued interest in immovable properties of the Central Government, State Governments, local bodies, educational, cultural, religious or charitable institutions including Waqf Boards, Bhoodan Yagan and other properties as may be notified by the State Government.

Clause 10.— This clause seeks to omit section 28 relating to “place for registering documents relating to land”.

Clause 11.— This clause seeks to amend section 29 of the Act relating to “place for registering other documents”. It is proposed to amend sub-section (1) of the said section so as to omit the words and figures “not being a document referred to in section 28 or a copy of a decree or order”. It is also proposed to amend sub-section (2) of the said section so as to omit the words “where the decree or order does not affect immovable property.”.

Clause 12.— This clause seeks to substitute a new section for section 32 relating to “persons to present documents for registration” so as to provide that except in the cases mentioned in sections 31, 88 and 89, or when the document is presented by electronic means, every document to be registered under this Act, whether such registration be compulsory or optional, shall be presented at the proper registration office, in the manner as may be prescribed—(a) by the person executing or claiming under the same, or, in the case of a copy of a decree or order, by a person claiming under the decree or order; or (b) by the representative or assignee of such person; or (c) by the agent of such person, representative or assignee, duly authorised by the power of attorney executed and authenticated in the manner hereinafter mentioned.

Clause 13.— This clause seeks to substitute a new section for section 32A relating to “compulsory affixing of photograph, etc”. Sub-section (1) of the said section proposes to provide that every person presenting any document at the proper registration office under section 32 shall affix in the document his passport size colour photograph and get photographed by digital camera and affix thumb impression by manual or by biometric device in the document and both executants and claimant shall sign in the document, if such document falls in the category of—(a) agreement to sell immovable property including developer's or promoter's agreement by whatever name called, for development of any property or construction of structure; (b) conveyance; (c) exchange; (d) gift; (e) lease including transfer of lease by way of assignment and surrender of lease; (f) mortgage; (g) partition; (h) settlement; (i) trust; (j) power of attorney.

Sub-section (2) of the said section proposes to provide that the passport size photograph and thumb impression of each executants and claimant shall also be affixed to the document referred to in sub-section (1).

Sub-section (3) of the said section proposes to provide that the State Government shall notify the order for taking photographs of identifying witnesses before the registering officer.

Clause 14.— This clause seeks to amend section 33 of the Act relating to “power of attorney recognisable for purposes of section 32”. It is proposed to amend to sub-section

(4) of the said section so as to substitute the words “may be proved” with the words “shall be proved”. It is also proposed to insert a proviso in the said sub-section to provide that a proof to the effect that the person executing the power of attorney is alive shall be produced.

Clause 15.—This clause seeks to amend section 35 of the Act relating to “procedure on admission and denial of execution respectively”. It is proposed to amend clause (a) of sub-section (1) of the said section so as to insert the words “or through electronic means, as the case may be” after the words “appear personally”. It is also proposed to amend sub-section (3) of the said section to insert clause (d) so as to that the registering officer shall refuse to register on such circumstances and such documents may be prescribed.

Clause 16.—This clause seeks to amend section 52 of the Act relating to “duties of registering officers when document presented”. It is proposed to amend clause (c) of sub-section (1) of the said section so as to provide that when a document is registered through the electronic means, the rules made by the State Government shall be followed in this regard.

Clause 17.—This clause seeks to amend section 57 of the Act relating to “registering officers to allow inspection of certain books and indexes and to give certified copies of entries” so as to provide that the Book No. 4 relating to “Miscellaneous Registrar” is proposed to be made open to inspection by the public to ensure greater transparency.

Clause 18.—This clause seeks to amend section 60 of the Act relating to “certificate of registration”. It is proposed to amend sub-section (1) of the said section to insert the words “or the true copy of the document has been filed” after the words “the document has been copied”.

Clause 19.—This clause seeks to amend section 61 of the Act relating to the “endorsements and certificate to be copied and document returned” so as to provide for keeping the copies of endorsement, certificate and map or plan in the Register-book and Book No. 1 by electronic means.

Clause 20.—This clause seeks to amend section 64 of the Act relating to the “procedure where document relates to land in several sub-districts”. It is proposed to amend the said section so provide for making of memorandum, endorsement and certificate in electronic form by the Sub-Registrar when such documents relate to land situated in several sub-districts.

Clause 21.—This clause seeks to amend section 65 of the Act relating to “procedure where document relates to land in several districts”. It is proposed to amend the said section so as to provide for forwarding copies of documents, endorsement and certificate in electronic form by the Sub-Registrar when documents relate to land situated in several districts.

Clause 22.—This clause seeks to amend section 66 of the Act relating to “procedure after registration of documents relating to land”. It is proposed to amend the said section so as to provide for forwarding of copies of memorandum of documents electronically by the Registrar to his subordinate Sub-Registrar if such documents are registered by the Registrar himself.

Clause 23.—This clause seeks to amend section 69 of the Act relating to “power of Inspector-General to superintendent registration offices and make rules”. It is proposed to amend the said section so as to provide for powers of Inspector-General to superintend registration offices and make rules.

Clause 24.—This clause seeks to amend sections 80A and 80B relating to “recovery of deficit registration fee” and “refund of excess fee” respectively. The said new clauses are proposed to provide the provisions relating to recovery of deficit registration fee if insufficiently paid or has not been paid and refund of fee if received in excess.

Clause 25.—This clause seeks to amend section 82 of the Act relating to “penalty for making false statements, delivering false copies or translations, false personation, and abetment”. It is proposed to amend the said section so as to provide for cancellation of documents in addition to penalty.

Clause 26.—This clause seeks to insert a new section 82A relating to “punishment for failure to send a copy of order under section 89”. The proposed new section provides for punishment for officers who fail to send a copy of the order within one month under section 89.

Clause 27.—This clause seeks to amend section 89 of the Act relating to “copies of certain orders, certificates and instruments to be sent to registering officers and filed”. It is proposed to amend said section so as to provide for forwarding copies by the banks and financial institutions, granting loans on the basis of equitable mortgage where immovable property is mortgaged by deposit of the title deeds for the purpose of securing repayment of the loan, online to the registering officer.

Clause 28.—This clause seeks to insert a new section 89A to the Act relating to “power of State Government to make rules” so as to empower the State Government to make rules for carrying out the provisions of the Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 28 of the Bill empowers the State Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the proposed legislation. Sub-clause (2) specifies the matters in respect of which such rules may be made. These matters, *inter alia*, include—(a) the manner of presentation of every documents to the registration office under section 32; (b) such circumstances and such documents under clause (d) of sub-section (3) of section 35; (c) the time within which and the manner of hearing and disposing of appeals under sub-section (3) of section 80A; (d) the manner of cancellation and the procedure to be adopted under sub-section (2) of section 82; and (e) any other matter which is required to be, or may be, prescribed.

2. Clause 28 of the Bill provides that every rule made under this Act by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.

3. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

SHUMSHER K. SHERIFF,
Secretary-General.